In the Court of Appeals of the State of Alaska

Mark David Gilber	t,)	
	Appellant(s),)	Court of Appeals No. A-13274
V.)	Order
State of Alaska,)	
	Appellee(s).)	Date of Order: April 22, 2019
To: 1 Co. of Co. of #2	AN 12 00226CT)	

Trial Court Case # **3AN-12-08226CI**

The Appellant, Mark David Gilbert, has been ordered to pay a reduced filing fee of \$8.50. He recently, through his court Appointed attorney Marilyn J. Kamm, requested that this Court either further reduce this fee, or waive it entirely. Ms. Kamm acknowledges that Mr. Gilbert has the money in his prisoner account to pay the current fee, but states that paying the fee would take almost all of the funds currently in his account.

A case like this — a prisoner's civil appeal against the State of Alaska — is governed by the provisions of AS 9.19. Under AS 9.19.010(d), even when a prisoner cannot afford to pay the normal filing fee, the filing fee must be at least 20 percent of (1) the average monthly amount of deposits to the prisoner's account during the preceding six months or (2) the average monthly balance of the prisoner's account during the preceding six months, whichever is greater. As long as a prisoner has funds in his prisoner account, this Count is unaware of any authority that allows it to ignore the statute controlling Mr. Gilbert's case. But this Court does have the authority to allow a payment plan for a prisoner, to allow the prisoner to comply with the statute.

Mark D. Gilbert v. State of Alaska Court of Appeals No. A-13274 April 22, 2019 Order Page 2

Accordingly, IT IS ORDERED:

- 1. Mr. Gilbert's motion to either further reduce the filing fee or to waive the reduced filing fee is **DENIED**. But in the interests of justice, this Court will allow Mr. Gilbert to pay his \$8.50 filing fee in two monthly payments of \$4.25. The first \$4.25 payment is due May 22, 2019, and the second \$4.25 payment is due June 22, 2019.
- 2. If there is good reason, the Court may grant a modification of this payment plan. But if Mr. Gilbert fails to make either payment by the time allowed, this appeal will be rejected for filing and this case will be closed.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts			
Beth A. Pechota, Deputy Clerk			

Distribution:

Marilyn J Kamm - OPA Contract Attorney at Law P.O. Box 210712 Anchorage AK 99521

RuthAnne Bergt Office of Criminal Appeals 1031 W. 4th Ave, Suite 200 Anchorage AK 99501